



MICHAEL A. CARDOZO  
Corporation Counsel

THE CITY OF NEW YORK  
**LAW DEPARTMENT**  
100 CHURCH STREET  
NEW YORK, NY 10007

DEBORAH A. BATTS  
U.S.D. SARAH B. EVANS  
Assistant Corporation Counsel  
Tel.: (212) 788-1041  
Fax: (212) 788-9776

March 25, 2008

**VIA HAND DELIVERY**

Honorable Deborah A. Batts  
United States District Judge  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 2510  
New York, New York 10007

MEMO ENDORSED

Re: Mark Labrew v. The City of New York, et al., 07 CV 4641 (DAB)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of the above-referenced matter on behalf of defendants. I write on behalf of the parties to respectfully request that the Court stay deposition discovery in this matter in order for the parties to engage in meaningful settlement discussions and refer this case to a Magistrate Judge for a settlement conference in sixty (60) days. Plaintiff's counsel, Carmen Giordano, Esq., and I make this application jointly.

As Your Honor may be aware, discovery is scheduled to close on April 4, 2008. The parties previously requested and were granted two enlargements of time to conduct discovery. At the time the parties last wrote to request an enlargement of time, the parties explained to the Court that defendants were awaiting receipt of plaintiff's medical records from various providers and that these records were necessary to evaluate plaintiff's alleged damages and to fully prepare for plaintiff's deposition. At that time, we also explained to the Court that while the parties had set aside dates for depositions, we were holding off in conducting same in order to obtain the outstanding records. Finally, the parties advised the Court that we were engaged in settlement discussions, we were hopeful an agreement could be reached which would obviate the need for further litigation, and therefore we requested an enlargement of time in order to continue settlement discussions.

Since the previous request for an enlargement of time to conduct discovery, the parties have been consistently communicating with each other regarding this case, and have engaged in further settlement discussions. To date, however, we have not reached a settlement

MEMO ENDORSED

MEMO ENDORSED

agreement and request additional time from the Court in order to continue these discussions. In this regard, however, the parties are awaiting receipt of additional medical information which may help to focus settlement discussions. I was advised by plaintiff's counsel that plaintiff was recently examined at Mt. Sinai Hospital, and that he is scheduled to undergo tests to his shoulder, including a dye test and an MRI, this week. The results of these tests may further focus settlement discussions. Moreover, defendants will need time to obtain and review plaintiff's most recent medical records as well as any outstanding medical records.

In light of the status of this case and the anticipated costs to litigate this case, the parties respectfully request that the Court stay deposition discovery for the next sixty days so that the parties can obtain these additional medical records and continue settlement discussions. The parties will continue to exchange documents during that time period and defendants will provide plaintiff with responses to plaintiff's discovery requests, however we respectfully submit that continued meaningful settlement discussions would be productive before the parties expend additional costs in litigating this case, such as costs on depositions. Moreover, we respectfully request that, in the event the parties are unable to reach a settlement agreement without the Court's assistance, the Court schedule a settlement conference in sixty days.

In view of the foregoing, it is respectfully requested that the Court grant the within requests. Thank you for your consideration herein.

REMOVED

Respectfully submitted,

*Sarah B. Evans*

Sarah B. Evans  
Assistant Corporation Counsel  
Special Federal Litigation Division

cc: Carmen S. Giordano, Esq. (By fax)  
Attorney for Plaintiff  
Law Office of Carmen S. Giordano  
225 Broadway, 40<sup>th</sup> Floor  
New York, New York 10007  
Fax: 212-406-9410

SO ORDERED

*Deborah A. Batts*

DEBORAH A. BATTS  
UNITED STATES DISTRICT JUDGE

3/27/08

GRANTED  
DAB